

AMENDED IN SENATE AUGUST 22, 2002

AMENDED IN SENATE AUGUST 14, 2002

AMENDED IN ASSEMBLY APRIL 16, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2041

Introduced by Assembly Member Vargas

February 15, 2002

An act to amend Section 1714.21 of the Civil Code, *to amend Section 1797.190 of*, and to amend, repeal, and add Section 1797.196 of, the Health and Safety Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 2041, as amended, Vargas. Liability: emergency care.

Existing law provides immunity from civil liability to any person who completes a basic cardiopulmonary resuscitation (CPR) or automatic external defibrillator (AED) course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross, and who, in good faith, renders emergency care by the use of an AED at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

This bill would revise ~~these~~ *those* provisions by deleting the requirement that a person complete a basic CPR or AED course. The bill would further provide immunity *from civil liability* to a person or entity that acquires an AED for emergency use *and renders emergency*

care, if that person or entity is in compliance with specified requirements.

The

Existing law authorizes the EMS Authority to establish minimum standards for AED use and training by unlicensed or uncertified individuals. Existing law requires specified persons to meet those standards.

This bill would expand the authorization to establish standards and would delete the requirement that specified persons meet those standards.

This bill would also require that the supplier of an AED notify the local ~~EMSA~~ EMS authority of the existence, location, and type of AED acquired, and provide to the acquirer specified information governing the use and maintenance of the AED. The bill would additionally require certain persons or entities that have acquired an AED to ensure employee training in CPR and AED use, as specified, and to follow particular emergency safety procedures. The bill would specify that the above requirements shall remain effective until January 1, 2008.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.21 of the Civil Code is amended
2 to read:

3 1714.21. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) "AED" or "defibrillator" means an automated or
6 automatic external defibrillator.

7 (2) "CPR" means cardiopulmonary resuscitation.

8 (b) Any person who, in good faith and not for compensation,
9 renders emergency care or treatment by the use of an AED at the
10 scene of an emergency is not liable for any civil damages resulting
11 from any acts or omissions in rendering the emergency care.

12 (c) A person or entity who provides CPR and AED training to
13 a person who renders emergency care pursuant to subdivision (b)
14 is not liable for any civil damages resulting from any acts or
15 omissions of the person rendering the emergency care.

16 (d) A person or entity that acquires an AED for emergency use
17 pursuant to this section is not liable for any civil damages resulting



1 from any acts or omissions in the rendering of the emergency care
2 by use of an AED, if that person or entity has complied with
3 subdivision (b) of Section 1797.196 of the Health and Safety
4 Code.

5 (e) A physician who is involved with the placement of an AED
6 and any person or entity responsible for the site where an AED is
7 located is not liable for any civil damages resulting from any acts
8 or omissions of a person who renders emergency care pursuant to
9 subdivision (b), if that physician, person, or entity has complied
10 with all of the requirements of Section 1797.196 of the Health and
11 Safety Code that apply to that physician, person, or entity.

12 (f) The protections specified in this section do not apply in the
13 case of personal injury or wrongful death that results from the
14 gross negligence or willful or wanton misconduct of the person
15 who renders emergency care or treatment by the use of an AED.

16 (g) Nothing in this section shall relieve a manufacturer,
17 designer, developer, distributor, installer, or supplier of an AED or
18 defibrillator of any liability under any applicable statute or rule of
19 law.

20 SEC. 2. *Section 1797.190 of the Health and Safety Code is*
21 *amended to read:*

22 1797.190. The authority may establish minimum standards
23 for the training and use of automatic external defibrillators by
24 ~~individuals not otherwise licensed or certified for the use of the~~
25 ~~device. These standards shall apply to all individuals given a~~
26 ~~prescription for the use of such a device on patients not specifically~~
27 ~~identified at the time the physician prescribed the device. Only~~
28 ~~those individuals who meet the training and competency standards~~
29 ~~established by the authority shall be approved for, and issued a~~
30 ~~prescription authorizing them to use, an automatic external~~
31 ~~defibrillator on a patient not specifically identified when the~~
32 ~~prescription is given.~~

33 SEC. 3. *Section 1797.196 of the Health and Safety Code is*
34 *amended to read:*

35 1797.196. (a) For purposes of this section, “AED” or
36 “defibrillator” means an automated or automatic external
37 defibrillator.

38 (b) In order to ensure public safety, any person or entity that
39 acquires an AED is not be liable for any civil damages resulting
40 from any acts or omissions in the rendering of the emergency care

1 under subdivision (b) of Section 1714.21 of the Civil Code, if that
2 person or entity does all of the following:

3 (1) Complies with all regulations governing the placement of
4 an AED.

5 (2) Ensures all of the following:

6 (A) That the AED is maintained and regularly tested according
7 to the operation and maintenance guidelines set forth by the
8 manufacturer, the American Heart Association, and the American
9 Red Cross, and according to any applicable rules and regulations
10 set forth by the governmental authority under the federal Food and
11 Drug Administration and any other applicable state and federal
12 authority.

13 (B) That the AED is checked for readiness after each use and
14 at least once every 30 days if the AED has not been used in the
15 preceding 30 days. Records of these checks shall be maintained.

16 (C) That any person who renders emergency care or treatment
17 on a person in cardiac arrest by using an AED activates the
18 emergency medical services system as soon as possible, and
19 reports any use of the AED to the licensed physician and to the
20 local EMS agency.

21 (D) For every AED unit acquired up to five units, no less than
22 one employee per AED unit shall complete a training course in
23 cardiopulmonary resuscitation and AED use that complies with
24 the regulations adopted by the Emergency Medical Service
25 Authority and the standards of the American Heart Association or
26 the American Red Cross. ~~If the person or entity acquires more than~~
27 ~~five AED units, no less than one additional person shall complete~~
28 ~~the training course for each additional AED unit acquired up to~~
29 ~~five additional units~~ *After the first five AED units are acquired, for*
30 *each additional five AED units acquired, one employee shall be*
31 *trained beginning with the first AED unit acquired.* Acquirers of
32 AED units shall have trained employees ~~trained~~ *who should be*
33 available to respond to an emergency that may involve the use of
34 an AED unit during normal operating hours.

35 (E) That there is a written plan that describes the procedures to
36 be followed in the event of an emergency that may involve the use
37 of an AED, to ensure compliance with the requirements of this
38 section. The written plan shall include, but not be limited to,
39 immediate notification of 911 and trained office personnel at the
40 start of AED procedures.

(3) Building owners ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) No less than once a year, building owners will notify their tenants as to the location of AED units in the building.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, *training*, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 shall be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

~~SEC. 3.~~

SEC. 4. Section 1797.196 is added to the Health and Safety Code, to read:

1797.196. (a) For purposes of this section, “AED” or “defibrillator” means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person who acquires an AED shall do all of the following:

(1) Comply with all regulations governing the training, use, and placement of an AED.

(2) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(3) Ensure all of the following:

1 (A) That expected AED users complete a training course in
2 cardiopulmonary resuscitation and AED use that complies with
3 regulations adopted by the Emergency Medical Services (EMS)
4 Authority and the standards of the American Heart Association or
5 the American Red Cross.

6 (B) That the defibrillator is maintained and regularly tested
7 according to the operation and maintenance guidelines set forth by
8 the manufacturer, the American Heart Association, and the
9 American Red Cross, and according to any applicable rules and
10 regulations set forth by the governmental authority under the
11 federal Food and Drug Administration and any other applicable
12 state and federal authority.

13 (C) That the AED is checked for readiness after each use and
14 at least once every 30 days if the AED has not been used in the
15 preceding 30 days. Records of these periodic checks shall be
16 maintained.

17 (D) That any person who renders emergency care or treatment
18 on a person in cardiac arrest by using an AED activates the
19 emergency medical services system as soon as possible, and
20 reports any use of the AED to the licensed physician and to the
21 local EMS agency.

22 (E) That there is involvement of a licensed physician in
23 developing a program to ensure compliance with regulations and
24 requirements for training, notification, and maintenance.

25 (c) A violation of this provision is not subject to penalties
26 pursuant to Section 1798.206.

27 (d) This section shall become operative on January 1, 2008.

